

REMARKS

This application has been amended in a manner that is believed to place it in condition for allowance at the time of the next Official Action.

Claims 45-92 are pending in the application. Claim 45 has been amended to recite that the syringe comprises an identification mark for identifying said syringe as one for corpse treatment. In addition, independent claim 45 has been amended to recite that the first cotton substance to be inserted in a mouth is sufficient for adjusting a shape in both cheeks of the corpse by positioning the first cotton substance inside both cheeks. Claims 91 and 92 have been added. Support for claim 91 may be found in claims 45 and 72. Support for claim 92 may be found in claims 45, 48, 89 and 72.

Claims 45-90 were rejected under 35 USC §103(a) as allegedly being unpatentable over NISHIHARA JP 2002-275001 in view of NISHIHARA JP 2003-111830 in further view of KITAJIMA JP 8-133901. This rejection is traversed.

NISHIHARA (JP2002-275001) discloses a device for filling a throat with jelly by inserting a device comprising nares. The device comprises a syringe 1, an inserting tube 4, and a connection portion 5 and jelly 8. The jelly is a material that is used to prevent the leakage of humoral liquid in a corpse. However, there is no recognition of a sealing device or

cotton plugs. Indeed, it appears that the jelly material eliminates the need for materials such as cotton plugs.

In an effort to remedy the deficiencies of NISHIHARA JP 2002-275001 for reference purposes, the Official Action cites to NISHIHARA JP 2003-111830. NISHIHARA JP 2003-111830 provides a sanitary coelom sealing device preventing the leakage of rectal waste from the anus to the relaxation of the sphincter caused by death or dementia so as to simplify the operation done by a person in charge of preventing the leakage or a caregiver, while preventing the person and people around from being infected due to the leakage of internal substances.

The Official Action cites to KITAJIMA JP 8-133901 for the proposition that KITAJIMA JP 8-133901 teaches a method for preventing leakage involving inserting a jelly into the inner part of the nasal cavity and ears and plugging the outer part of the cavities with medical cotton. JP 8-133901 discloses a cotton plug B for the oral cavity 9, which is inserted into the back of the oral cavity 9 (i.e. throat).

None of the references, JP 2002-275001, JP 2003-111830 or JP 8-133901 discloses providing a color identification mark for identifying the syringe as one for corpse treatment on the syringe. According to the present invention, the above identification mark ensures that the syringe is used to treat a corpse. In this regard, the identification mark is not only serves a function beyond "ornamentation". Indeed, the color

identification mark has a technical function (i.e., preventing misuse by identifying the syringe for corpse treatment). Therefore, the identification mark of the present invention has a mechanical function.

As to *In re Seid* 161 F.2d 229, 73 USPQ 431 (CCPA 1947) cited by the Official Action, the claim at issue was directed to an advertising display device comprising a bottle and a hollow member in the shape of a human figure from the waist up which was adapted to fit over and cover the neck of the bottle, wherein the hollow member and the bottle together give the impression of a human body. Appellant argued that certain limitations in the upper part of the body, including the arrangement of the arms, were not taught by the prior art. The court found that matters relating to ornamentation only which have no mechanical function cannot be relied upon to patentably distinguish the claimed invention from the prior art. This stands in contrast to the claimed invention as the color identification mark does provide a technical function.

Applicant believes that claims 91 and 92 are further distinguishable from the prior art in that the claims further characterize the syringe, body fluid sealing member, and/or cotton substances. Claim 91 also recites a syringe having an identification mark for identifying. However, claim 91 also recites that the cotton substances contain a jelly substance. None of the publications, alone or in combination disclose such a

feature. As a result, it is believed that the claimed invention fails to disclose or suggest the claimed invention.

Claim 92 also recites a "syringe comprising i) an identification mark for identifying said syringe as one for corpse treatment provided on said syringe and ii) a jelly substance comprising a water-absorbing polymer to be inserted into a throat of a corpse, wherein said jelly substance filled in said syringe includes a solvent, a puffing agent included in a ratio of 0.02 through 0.15 parts by weight on the basis of 100 parts by weight of said solvent, and a water-absorbing polymer powder dispersed in a ratio of 5000 or more particles per 1 mL of said jelly substance".

In addition, claim 92 recites "a body fluid sealing member for a rectum comprising a water-absorbent material comprising a cylindrical molded body made from porous fiber with a two-layered structure including an inner layer corresponding to a core material made of acrylic fiber and a high water-absorbing outer layer, and a water-soluble sheet covering an outer circumference of said cylindrical molded body".

Once again, none of the publications disclose or suggest such features.

In this regard, applicant believes that the Official Action fail to disclose or suggest claims 91 and 92.

In view of the present amendment and foregoing remarks, therefore, applicant believes that the present application is in

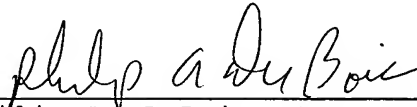
condition for allowance at the time of the next Official Action. Allowance and passage to issue on that basis is respectfully requested.

Please charge the fee of \$100 for the four (4) extra claims of any type added herewith to our credit card as set forth on the attached Credit Card Payment Form.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON



Philip A. DuBois, Reg. No. 50,696
745 South 23rd Street
Arlington, VA 22202
Telephone (703) 521-2297
Telefax (703) 685-0573
(703) 979-4709

PD/fb